

Assembly Bill No. 1306

CHAPTER 30

An act to amend Section 1203.9 of the Penal Code, relating to probation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 12, 2004. Filed with
Secretary of State April 13, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, Leno. Probation: transfer of cases.

Existing law sets forth procedures under which a person released upon probation may be transferred to the care and custody of the probation officer of another county.

This bill would provide special probation transfer procedures for people on probation under the initiative provisions relating to controlled substance possession and similar charges. Once transferred, the probationer would be under the jurisdiction of the court in the new county for all purposes, including probation supervision and treatment.

By requiring a county to accept a transfer of probation in certain circumstances, thereby obligating that county to provide supervision and treatment, and to address violations of probation with prosecution and other resources, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1203.9 of the Penal Code is amended to read:

1203.9. (a) Whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county

in which the person resides permanently, meaning the stated intention to remain for the duration of probation; provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. If the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer. The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(b) Except as provided in subdivision (c), if the court of the receiving county finds that the person does permanently reside in or has permanently moved to the county, it may, in its discretion, either accept the entire jurisdiction over the case, or assume supervision of the probationer on a courtesy basis.

(c) Whenever a person is granted probation under Section 1210.1, the sentencing court may, in its discretion, transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county.

(d) The order of transfer shall contain an order committing the probationer to the care and custody of the probation officer of the receiving county and an order for reimbursement of reasonable costs for processing the transfer to be paid to the sending county in accordance with Section 1203.1b. A copy of the orders and probation reports shall be transmitted to the court and probation officer of the receiving county within two weeks of the finding by that county that the person does permanently reside in or has permanently moved to that county, and thereafter the receiving court shall have entire jurisdiction over the case, with the like power to again request transfer of the case whenever it seems proper.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:



In order to assure effective administration of special probation transfer procedures as soon as possible, it is necessary that this act take effect immediately.

